

JAN 27 2022

JULIA C. DUDLEY, CLERK

BY: 
DEPUTY CLERK

IN THE U.S. DISTRICT COURT
FOR THE WESTERN DISTRICT OF VA
ROANOKE DIVISION

7:22.CV-00043

MICHAEL DERRICK EDWARDS

V.

CORRECTIONS OFFICER, N.J. KING

CORRECTIONS OFFICER, R.J. OH

CORRECTIONS OFFICER, BARNETT

I. JURISDICTION AND VENUE

THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C. § 1983 TO
REDRESS THE DEPRIVATIONS UNDER COLOR OF STATE LAW OF
RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED
STATES.

THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 1331 AND
1343 (A)(3)

THIS COURT HAS SUPPLEMENTAL JURISDICTION UNDER
28 U.S.C. § 1367 TO HEAR PLAINTIFF'S CLAIMS OF STATE
TORT ASSAULT AND BATTERY.

PLAINTIFF SEEKS DECLARATORY RELIEF PURSUANT TO 28 U.S.C.
§ 2201 AND 2202

THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA ROANOKE DIVISION IS AN APPROPRIATE VENUE
UNDER 28 U.S.C. § 1391 (B)(2)

II. PLAINTIFF

PLAINTIFF, MICHAEL DEBBICK EDWARDS IS AND AT ALL TIMES MENTIONED HEREIN, A PRISONER OF THE STATE OF VIRGINIA WITHIN THE VIRGINIA DEPARTMENT OF CORRECTIONS, ("VADOC"), HE IS CURRENTLY HOUSED AT BEDFORD STATE PRISON

III. DEFENDANTS

- 1) DEFENDANT N.J. KING IS A CORRECTIONS OFFICER AT BEDFORD STATE PRISON
- 2) DEFENDANT E. JOH IS A CORRECTIONS OFFICER AT BEDFORD STATE PRISON
- 3) DEFENDANT BARNETT IS A CORRECTIONS OFFICER AT BEDFORD STATE PRISON

EACH DEFENDANT IN THIS SUIT IS SUED BOTH IN THEIR INDIVIDUAL AND OFFICIAL CAPACITY AT ALL TIMES MENTIONED IN THIS COMPLAINT, EACH DEFENDANT ACTED UNDER COLOR OF STATE LAW.

IV. FACTS OF THE CASE

IN THE EARLY MORNING HOURS ON 10-24-21 AROUND 6:00AM - 6:30AM PLAINTIFF TOLD OFFICERS HE WANTED TO TAKE A SHOWER THAT DAY, BUT DUE TO HIS REFUSAL TO TAKE A COVID-19 TEST HE SUFFERED

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AN ADVERSE DECISION FROM SECURITY SUPERVISORS IN THE FORM OF NOT BEING ABLE TO GO TO OUTSIDE RECREATION, AND HE WOULD HAVE TO TAKE HIS SHOWER AFTER EVERY PRISONER ON HIS TIER WAS THROUGH, DEFENDANTS KING AND BARNETT WERE THE OFFICER ESCORTING PRISONERS TO AND FROM OUTSIDE RECREATION AND SHOWERS.

AROUND 11:00AM DEFENDANTS KING AND BARNETT WERE FINISHED CONDUCTING RECREATION AND SHOWERS, WHICH ONLY LEFT PLAINTIFF TO BE PULLED FOR THE SHOWER, DEFENDANT KING TOLD PLAINTIFF THEY WOULD TAKE HIM TO THE SHOWER AFTER CUNT, CUNT TAKES PLACE AT 12:30PM IN WHICH ALL PRISONER MOVEMENT IS TO CEASE 15 MINUTES BEFORE. THERE WAS STILL TIME TO PLACE PLAINTIFF IN THE SHOWER.

AFTER 12:30PM CUNT PLAINTIFF STILL WAS NOT TAKEN TO THE SHOWER, AROUND 4:30PM INSTEAD OF PULLING PLAINTIFF OUT TO GO TO THE SHOWER DEFENDANTS KING AND BARNETT STARTED TAKING PRISONERS TO THE J. PAY KIOSK, EACH KIOSK SESSION FOR PRISONERS ARE 20 MINUTES, DEFENDANTS KING AND BARNETT CONTINUED TO STATE TO PLAINTIFF THEY WERE GOING TO TAKE HIM TO THE SHOWER, NOW, AFTER THEY FINISH TAKING PRISONERS TO THE KIOSK. AROUND 5:00PM DEFENDANTS KING AND BARNETT TOLD PLAINTIFF THEY DID NOT HAVE TIME TO TAKE HIM TO

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THE SHOWER, PLAINTIFF ASKED TO SEE THE SERGEANT ABOUT THEIR REFUSAL TO TAKE HIM TO THE SHOWER.

INSTEAD OF THE SERGEANT DEFENDANT OH CAME INTO THE POD TO TALK TO PLAINTIFF. PLAINTIFF EXPLAINED TO DEFENDANT OH THAT KING AND BARNETT WERE REFUSING TO TAKE HIM TO THE SHOWER SO HE NEEDED TO SPEAK TO THE SERGEANT.

- 1) CLAIM (1) - 8TH AMENDMENT VIOLATION AND TORT OF ASSAULT AND BATTERY DUE TO DEFENDANT KING SLAMMING METAL TRAY SLOT SLIDER INTO PLAINTIFF'S RIGHT ARM AGGRESSIVELY THREE TIMES.

WHILE PLAINTIFF WAS TALKING TO DEFENDANT OH, DEFENDANT KING HAD CAME INTO THE POD TO PICK UP DINNER TRAYS. UPON ARRIVING AT PLAINTIFF'S CELL DOOR DEFENDANT KING TOLD OH PLAINTIFF WAS NOT GETTING A SHOWER NOR WAS CALLING THE SERGEANT, WHILE KING WAS TALKING TO OH HE WAS OPENING THE TRAY SLOT SLIDER ON THE CELL DOOR, AT THAT TIME PLAINTIFF PLACED HIS RIGHT ARM INTO THE TRAY BOX, DEFENDANT KING THEN ASKED PLAINTIFF TO REMOVE HIS ARM WHEN PLAINTIFF REFUSED KING AGGRESSIVELY SLAMMED THE TRAY SLOT SLIDER INTO PLAINTIFF'S RIGHT ARM 3 TIMES TELLING PLAINTIFF HE HOPE HIS ARM IS BROKE.

- 2) CLAIM (2) - 8TH AMENDMENT VIOLATION (BYSTANDER

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LIABILITY), DUE TO DEFENDANTS BARNETT AND OH'S REFUSALS TO INTERVENE OR STOP KING FROM SLAMMING TRAYSLOT SLIDER INTO PLAINTIFF'S ARM.

DEFENDANTS BARNETT AND OH WERE PRESENT WHILE KING SLAMMED THE TRAYSLOT SLIDER INTO PLAINTIFF'S ARM, THEY BOTH WERE AT LEAST WITHIN ARM REACH OF KING AND REFUSED TO STOP HIM FROM THE ACT OF SLAMMING THE TRAYSLOT SLIDER INTO PLAINTIFF'S ARM.

DEFENDANT BARNETT WALKED AWAY STATING PLAINTIFF WASN'T GETTING A SHOWER, DEFENDANT OH CONTINUED TO TELL PLAINTIFF TO MOVE HIS ARM THREATENING HIM THAT IF HE DIDN'T HE WAS GOING TO SPRAY HIM (WITH OC SPRAY) IF HE DIDN'T.

NEITHER DEFENDANT OH NOR BARNETT MADE ANY ATTEMPT TO STOP DEFENDANT KING FROM SLAMMING THE METAL TRAYSLOT SLIDER INTO PLAINTIFF'S ARM, EVEN IF THEY COULDN'T HAVE PREVENTED THE INITIAL SLAM, THEY WERE IN REACH AND IN A POSITION TO PREVENT THE SUBSEQUENT LAST TWO AND TAKE CONTROL OF THE SITUATION.

ON 10-24-21 PLAINTIFF FILED AND WRITTEN COMPLAINT ABOUT THE ACTIONS AND INACTIONS OF DEFENDANTS KING, BARNETT, AND OH, (EXHIBIT #1 COMPLAINT #

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POSP-21-INV-01895), PLAINTIFF FILED A GRIEVANCE ALSO ABOUT THE INCIDENT ON 11-24-21, (EXHIBIT #2 - GRIEVANCE # POSP-21-REG-00339), THE GRIEVANCE WAS UNFOUNDED IN WHICH PLAINTIFF SUBSEQUENTLY APPEALED, (EXHIBIT #3 - GRIEVANCE APPEAL LEVEL-1), THE REGIONAL ADMINISTRATOR UPHOLD THE DECISION. (EXHIBIT #4 GRIEVANCE RESPONSE LEVEL II).

V. EXHAUSTION OF LEGAL REMEDIES

PLAINTIFF MICHAEL DEERICK EDWARDS HAS EXHAUSTED ALL HIS AVAILABLE ADMINISTRATIVE REMEDIES TO THE BEST OF HIS CAPABILITIES WITH RESPECT TO ALL CLAIMS AND ALL DEFENDANTS; COMPLETING ALL AVAILABLE STEPS OF THE GRIEVANCE PROCEDURE WHICH HE WAS CAPABLE OF, APPEALING EACH DECISION TO THE LAST LEVEL, THE PLEADINGS WITHIN THIS COMPLAINT ARE SUFFICIENT TO EXPLAIN PLAINTIFF'S EXHAUSTION OF ADMINISTRATIVE REMEDIES.

VI. LEGAL CLAIMS

THE ACTIONS OF THE DEFENDANTS, NAMED IN THIS SUIT, VIOLATED PLAINTIFF'S 8TH AMENDMENT RIGHTS AND CONSTITUTING THE TORT OF ASSAULT AND BATTERY.

PLAINTIFF HAS NO PLAIN, ADEQUATE, AVAILABLE or COMPLETE REMEDY AT LAW TO REDRESS THE WRONGS DESCRIBED IN

THIS SUIT.

PLAINTIFF HAS BEEN AND WILL CONTINUE TO BE IRREPARABLY INJURED BY THE CONDUCT OF THE DEFENDANTS UNLESS THIS COURT GRANTS THE RELIEF WHICH PLAINTIFF SEEKS.

VII. PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT ENTER JUDGEMENT IN PLAINTIFF'S FAVOR GRANTING:

- 1) (A) DECLARATORY JUDGEMENT STATING THAT THE PHYSICAL ABUSE OF THE PLAINTIFF BY DEFENDANT N.). KUGS VIOLATED PLAINTIFF'S RIGHTS UNDER THE 8TH AMENDMENT AND CONSTITUTED AN ASSAULT AND BATTERY TORT UNDER STATE LAW;
- (B) A DECLARATORY JUDGEMENT STATING DEFENDANTS BARNETT AND E.).OH'S FAILURE TO TAKE ACTION TO STOP THE PHYSICAL ABUSE OF PLAINTIFF BY DEFENDANT KUGS VIOLATED PLAINTIFF'S RIGHTS UNDER THE 8TH AMENDMENT AND CONSTITUTED AN ASSAULT AND BATTERY TORT UNDER STATE LAW;
- 2) COMPENSATORY DAMAGES IN THE AMOUNT OF \$10,000.00 AGAINST EACH DEFENDANT JOINTLY AND SEVERALLY;
- 3) PUNITIVE DAMAGES IN THE AMOUNT OF \$20,000.00 AGAINST EACH DEFENDANT;
- 4) A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY;

- 5) PLAINTIFF'S COSTS IN THIS SUIT;
6) ANY ADDITIONAL RELIEF THIS COURT DEEMS, JUST, PROPER,
AND EQUITABLE.

DATED 1-24-22

RESPECTFULLY SUBMITTED BY

MICHAEL DERRICK EDWARDS

RED OXION STATE PRISON

P.O. BOX 970

PAUN VA 24279

VERIFICATION

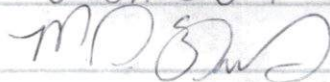
I PLAINTIFF MICHAEL DERRICK EDWARDS HAS READ THE
FOREGOING COMPLAINT AND HEREBY VERIFY THAT THE MATTERS
STATED THEREIN ARE TRUE / CORRECT UNDER PENALTY OF
PERJURY PURSUANT TO 28 U.S.C. § 1746 ON THIS DATE OF 1-24-22

M.D. Edwards

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CERTIFICATE OF SERVICE

I MICHAEL DERRICK EDWARDS # 1408577, CURRENTLY HOUSED
AT PENNSYLVANIA STATE PRISON P.O. BOX 970 RENO VA 24279
CERTIFY / DECLARE UNDER PENALTY OF PERJURY THAT THE
FOREGOING §1983 COMPLAINT IS TRUE, CORRECT, DATED, SIGNED
AND PLACED INTO THE INTERNAL MAILING SYSTEM TO BE
SENT TO THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT
OF VA ROANOKE DIVISION 210 FRANKLIN ROAD SUITE
540 ROANOKE VA 24011 ON 1-24-22



MICHAEL D. EDWARDS #14-577
ROANOKE STATE PRISON
P.O. Box 970
Roanoke VA 24079

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VA DEPARTMENT OF CORRECTIONS
HAS NEITHER CENSORED OR INSPECTED
ITEM THEREFORE THE DEPARTMENT DOES
NOT ASSUME ANY RESPONSIBILITY
FOR ITS CONTENTS

25 JAN
2022



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Clerk of
U.S. DISTRICT COURT S.W.
210 Franklin ROAD
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ROANOKE VA 24011

24011\$0003 C009



LEGAL CORRESPONDENCE